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IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

No. 485

STELLA C. DAVIS,

Petitioner,

vs.

JOHN EDGAR HOOVER, Director, and SPECIAL AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION, and RAY M. FOREMAN, and the UNITED STATES OF AMERICA,

Respondents.

Petition for Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

STELLA C. DAVIS, *Pro Se, Executor,*
4916 N. Magnolia Avenue,
Chicago, Illinois.

INDEX

	PAGE
Reports of Opinion Below	2
Jurisdiction	3
Question Presented	4
Statement of Case	5
Argument	7
Conclusion	10
Appendix "A"	13

List Of Authorities.

Cases:

Aptheker v. Secretary of State, 378 U.S. 500 ..... 3, 8

Braxton v. Matthews, 154 S.E. 735, 199 N.C. 484 10

Coles County Court, Probate No. 15428 9

Davis v. Foreman, 6 Ill. App. 2d 343, 3rd Dist., Pro Se 3, 8

Davis & Horrigan v. Foreman & U.S.A., 239 F. 2d 579, C.A. 7 Cir., Pro Se 8, 9

Davis & Horrigan v. Seymour, Civil No. 35831 U. S. Dist. Court, No. Calif., So. Div., 353 U.S. 791, Pro Se 8

Daviditis, Davis & Horrigan v. The Nat'l. Bank of Mattoon, Ill. App. No. 9993, Rehearing denied, leave to appeal to Supreme Court of Illinois, denied, Pro Se, 357 U.S. 969 8

Davis & Horrigan v. Foreman, Meachum & Clapper, 251 F. 2d U.S. Sup. Crt., 356 U.S. 940, Certiorari denied, Pro Se 8
Daviditis, Davis, Horrigan v. The Nat'l. Bank of Mattoon, 251 F. 2d 299, C.A. 7 Cir., Pro Se 8
Daviditis, Davis & Horrigan v. The Nat'l. Bank of Mattoon, Wayne Joseph O'Bryan, June O'Bryan & Ray M. Foreman, 354 U.S. 632, Certiorari denied, Pro Se, 262 F. 2d 884, Rehearing denied 8
Daviditis, Davis & Horrigan v. Hon. Casper Platt, Judge of U. S. District Court, Ea. Dist. Ill., 12527 U.S.C.A. 7 Cir., Petition for Mandamus Dismissed, Rehearing denied, Pro Se 8
Harrington v. U.S.C.A., Iowa 1920, 257 F. 97 9
In Re Quarles, Ga. 1895, 15 S. Ct. 959, 158 U.S. 537, 39 L.ed. 1850 ..... 3, 9
Mooney v. Holohan, 294 U.S. 103 10
Moore v. Ruck Gaber, 184 U.S. 593, 46 L.ed. 705, 22 S. Ct. 521 3
U. S. ex rel. Hall v. Ragen, 60 F. Supp. 820 (1945) 3, 9

Statutes and Constitution:

U.S.C. 28 sec. 1654, 1346 (b), 2401 (b), 1254 (1) (3), Rule 56 (1895) 4, 9, 10
The Anti-Moiety Act of June 22, 1879, Ch. 391, 18 Stat., The Subversive Activties Control Act of 1950, 64 Stat., 50 N.S.C. 785, section 6 8
Constitution, 14th Amendment 10
Constitution, 4th and 5th Amendments 3, 10

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To The Honorable Earl Warren, Chief Justice, and Associate Justices of The Supreme Court of The United States.

Stella C. Davis, petitioner, Pro Se, Executor, prays that a Writ of Certiorari issue to review and reverse the Order of The United States Court of Appeals for the Seventh Circuit entered on June 7, 1965, affirming the Orders of the District Court for The Northern District of Illinois, Eastern Division and asserts the following:

REPORTS OF OPINIONS BELOW.

The Opinion of the United States Court of Appeals for the Seventh Circuit is set forth in an appendix "A" hereto.

The United States District Court for The Northern District of Illinois, issued its Order on December 16, 1964, dismissing plaintiffs' cause of action for lack of jurisdiction over the subject matter and that the complaint fails to state a claim upon which relief can be granted. No written opinions were issued.

JURISDICTION.

The judgment of the District Court was entered on December 16, 1964 (R. 162-172).

On December 31, 1964, plaintiff filed Notice of Appeal, and on March 30, 1965, filed Brief and Appendix for The Appellant in the United States Court of Appeals for the Seventh Circuit. On June 7, 1965, the Court of Appeals affirmed the judgment of the District Court.

This petition is filed within ninety days from entry of judgment on appeal, affirming dismissal of plaintiff's complaint and accordingly the jurisdiction of this Court to review the Order of the United States Court of Appeals for the Seventh Circuit by a Writ of Certiorari is invoked under Title 28 U.S.C. section 1254 (1) (3). Also under Rule 56 (of 1895) U.S.C. 28, The Anti-Moiety Act of June 22, 1879. Ch. 391, 18 Stat., the 14th (1) (2), the IV and Vth amendments to the Constitution of the United States. The plaintiff challenges the validity of U.S.C. Title 28, sections 1654 and 2401 (b) and draws as a comparison the challenges of the validity of The Subversive Activities Control Act of 1950, section 6, 64 stat. 50 N.S.C. 785, as applied to the rights and privileges of litigants in *Aptheker* v. *Secretary of State,* 378 U.S. 500. See *In Re Quarles,* Ga. 1895, 15 S. Ct. 959, 158 U.S. 537, 39 L. ed. 1080, *U. S. Ex rel Hall* v. *Ragen,* 60 F. Supp. 820 (1945), *Mooney* v. *Holohan,* 294 U.S. 103, *Moore* v. *Ruck Gaber,* 184 U.S. 593, 46 L. ed. 705, 22 S. Ct. 521, *Davis* v. *Foreman,* 6 Ill. App. 2d 343, 3rd Dist., Pro Se.

QUESTIONS PRESENTED

The questions presented by the petition are set heretofore: Whether a Trial Court commits reversible error in dismissing plaintiffs' cause of action for legal relief against the defendants, because petitioner, by necessity, not by choice, was forced to try to get relief for grievances by exercising a right under Title 28 U.S.C.A. section 1654.

Therefore, petitioner challenges the validity of U.S.C. 28 section 1654 regarding the application of this "Act of Congress", to the decisions of the United States District Court and the Court of Appeals for the Seventh Circuit in dismissing petitioner's cause of action (br. & app. pp. 8-9, 10-10) and (app. "A") because the complaint fails to state a claim upon which relief can be granted.

The petitioner requested legal relief and remedies from the Director, John Edgar Hoover, of the Federal Bureau of Investigation, protection from death and reprisals of corporations and individuals complained about to said agency. The question that the petitioner asks is: Whether a complainant to the F.B.I., and other federal agencies is denied all protection and relief by dismissal of the cause of action as stated in the pleadings of the plaintiff, Pro Se?

The petitioner also questions the validity of U.S.C. 28 sections 1346 (b), and 2401 (b) which involves a continuous conspiracy to impede administration of Justice and bar any relief by the provisions of the above statutes by Ray M. Foreman, defendant-appellee, the officials of the National Bank of Mattoon, attorneys and other persons, wherein the plaintiff was placed under a continuous legal duress, thereby preventing the above mentioned statutes as operative regarding this petitioner.

STATEMENT OF THE CASE.

This action was brought by the petitioner to recover damages resulting from a continuous, constructive fraud and conspiracy perpetrated upon the petitioner, her late mother, Josephine Daviditis, aka, Josephine Davis, and on the heirs-at-law of the decedent, William Daviditis, aka, William Davis, by Ray M. Foreman, defendant together with the National Bank of Mattoon, fiduciaries of the litigant, the decedents, and the heirs-at-law.

The defendant, Ray M. Foreman, a former U. S. Assistant Attorney for the Eastern Federal District of Illinois, to the belief of the petitioner, used that office for a private gain, the Federal Bureau of Investigation as an information source, and its agents as his "errand man".

An F.B.I. agent referred the petitioner to the defendant, Ray M. Foreman, and as the result of this official contact with the defendant by the petitioner, a fiduciary relationship resulted in which the defendant became involved in the estate (together with the National Bank of Mattoon) of William Daviditis, aka, William Davis, deceased. This relationship of the defendant towards the petitioner became detrimental, under the rights and privileges and protection, not only under the State of Illinois, State of California, but under The United States Constitutions, namely amendments XIV (1) (2), IV & V (R. pp. 163-165), but also to the decedent, Josephine Daviditis, aka, Josephine Davis, deceased, and the heirs-at-law of the decedent, William Daviditis, aka, William Davis (Br. & app. pp. 14-15).

The petitioner's exhibits (documentary evidence) which were appended to the pleadings were ignored by the District Court and the Court of Appeals (R. pp. 162-168, pp. 10-12, 15-16).

Because the petitioner was forced to represent herself, Pro Se., legal and professional help was denied in the United States, therefore, Petitioner had to go to another country (Canada) to get legal and professional help for analyzing forged signatures on large checks given as consideration for conveyance of real estate and on United States Savings Bonds. (Br. & app. pp. 18-19).

The petitioner asked for legal relief and remedies (in pleadings Br. & app. p. 19) from the Director, John Edgar Hoover, of the Federal Bureau of Investigation, for protection from death and reprisals of the corporations and individuals complained about to said agency.

ARGUMENT.

I.

"Acts Of Congress" Affecting The Public Interest Is Drawn In Question In U.S.C. Title 28, Section 1654.

Petitioner challenges the validity of this "Act of Congress", and states that it is unconstitutional because it violates all principles of Justice under the Constitution, where litigants go into the courts to get justice Pro Se, not from choice, but from necessity, as this petitioner had to do.

The petitioner, Pro Se, was forced into this and other causes of action by the Rule of Force and Fraud which was substituted for the Rule of Law by the perjury, subornation of perjury, and violation of the rights of litigant. The defendant, a former "Officer of the U. S. Courts and Department of Justice", by deceit, treachery, intimidation, oppression, and false pretenses (and the silence of the federal agencies) substituted the Rule of Force and Fraud for the Rule of Law.

The cardinal principle of Anglo-American Law, "equality of all men before the Law", was stricken out for the petitioner without adequate representation. The following listed causes of action is an example of this type of justice making petitioner not equal, because the officials and the attorneys were beholden to one side therefore the opposing side, the petitioner, Pro Se, was no longer equal in the eyes of the deciding judges (Tr. p. 136) (Br. & app. pp. 14-15).

In *Aptheker Et Al* v. *Secretary Of State*, 378 U.S. 500, the Supreme Court ruled on behalf of the litigants, registered members of the Communist Party. The litigants were protesting the constitutionality of Subversive Activities Control Act of 1950, 64 Stat. U.S.C. 785 section 6, regarding the revocation of their passports. However when petitioner challenged the constitutionality of U.S.C. 28 sec. 1654, as evident in the many causes of action in the courts, the issues as pleaded were ignored by the courts.

Davis v. *Foreman*, 6 Ill. App. 2d 343, 3rd Dist., Pro Se.

Davis & Horrigan v. *Foreman & U.S.A.*, 239 F. 2d 579 C.A. 7 Cir. Pro Se.

Davis & Horrigan v. *Seymour*, Civil No. 35831 U. S. Dist. Court No. Calif. So. Div., 353 U.S. 791. Pro Se.

Daviditis, Davis & Horrigan v. *The Nat'l. Bank of Mattoon*, Ill. App. No. 9993, Rehearing denied, leave to appeal to Supreme Court of Illinois, denied. Pro Se. 357 U.S. 969.

Davis & Horrigan v. *Foreman, Meachum & Clapper*, 251 F. 2d, U.S. Sup. Ct. 356 U.S. 940, Certiorari denied. Pro Se.

Daviditis, Davis, Horrigan v. *The Nat'l. Bank of Mattoon*, 251 F. 2d 299 C.A. 7 Cir. Pro Se.

Daviditis, Davis & Horrigan v. *The Nat'l. Bank of Mattoon, Wayne Joseph O'Bryan, June O'Bryan & Ray M. Foreman*, 354 U.S. 632. Certiorari denied. Pro Se. 262 F. 2d 884, Rehearing denied.

Daviditis, Davis & Horrigan v. *Hon. Casper Platt*, Judge of U. S. Dist. Court Ea. Dist.

Ill. 12527 U.S.C.A. 7 Cir. Petition for Mandamus Dismissed. Rehearing denied. Pro Se. Coles County Court, Probate No. 15428. All relief denied.

II.

U.S.C. 28, Sections 1346(b) and 2401(b).

Davis et al v. *Foreman et al,* 239 F. 2d 579.
Harrington v. *U.S.C.A.,* Iowa 1920, 257 F. 2d 97.

Conspiracy to impede administration of Justice and Bar relief on "Statute of Limitations" on Federal Tort Claims Act. U.S.C. 28 Sec. 1346 (b) and sec. 2401 (b) is unconstitutional due to the constructive fraud and conspiracy by defendant, Ray M. Foreman, the officials of the National Bank of Mattoon, attorneys and other persons causing the petitioner to be placed under continuous legal duress.

III.

It Is The Right Of Every Private Citizen Of The United States To Inform An F.B.I. Agent, Treasury Agent, Etc., Of Violations Of Internal Revenue, Banking, And Other U. S. Laws Under Rule 56 U.S.C. Title 28. Also The Anti-Moiety Act Of June 22, 1879, Ch. 391, 18 Stat. 196.

In Re Quarles, Ga. 1895, 15 S. Ct. 959, 158 U.S. 537, 39 L. ed. 1850.
U. S. ex rel Hall v. *Ragen,* 60 F. Supp. 820 (1945).

This right to inform the Federal Bureau of Investigation is secured by the Constitution of The United States and a conspiracy to injure, oppress, threaten the life of the plaintiff, and to intimidate plaintiff in the free exercise or enjoyment of this right, or because of having exercised it may be punishable by an "Act of Congress".

The plaintiff-petitioner in Supplemental Pleadings To Plaintiff's Complaint of November 8, 1963 (Tr. p. 96) asks legal relief and remedies from the director, John Edgar Hoover, of The Federal Bureau of Investigation, protection from death and reprisals of corporations and individuals complained about to said agency. Plaintiff also asks for an investigation by Congress on said allegations.

IV.

The Charge Of A Continuous, Constructive Fraud And Conspiracy As Such Set Forth, Is A Denial Of Due Process Of The Law, And Violations Of XIV, IV And V Amendments To The Constitution.

Mooney v. *Holohan*, 294 U.S. 103.
Braxton v. *Matthews*, 154 S.E. 735, 199 N.C. 484.

CONCLUSION.

It is respectfully submitted that the record of this case presents issues of such basic importance to the furtherance of Jutice in the Courts of the United States with regard to litigant who is forced, without adequate legal representation, not by choice, but by necessity, seeking legal relief for grievances under U.S.C. Title 28, section 1654. This "Act of Congress" should be declared unconstitutional because it violates the cardinal principle of Anglo-American Law, "Equality of all men before the Law", and its application to the petitioner's cause of action because the officials and the attorneys were beholden to one side therefore the opposing side, Pro Se, was no longer equal in the eyes of the deciding judges.

The courts ignore pleas of protection of life and of reprisals asked of the Director, John Edgar Hoover, of the F.B.I. Does this Court agree with them in their denials of relief?

Respectfully submitted,

STELLA C. DAVIS, *Pro Se, Executor,*
4916 N. Magnolia Avenue,
Chicago, Illinois 60640,

APPENDIX "A"

No. 15007 SEPTEMBER TERM 1964—APRIL SESSION 1965

STELLA C. DAVIS,
Plaintiff-Appellant,

v.

JOHN EDGAR HOOVER, et al.,
Defendants-Appellees.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

JUNE 7, 1965

Before DUFFY, KNOCH and KILEY, *Circuit Judges.*

PER CURIAM: Plaintiff appeared in the District Court and here, pro se. She has commenced and conducted much litigation in the federal and state courts, asserting various claims of fraud, conspiracy, legal chicanery, etc. See *Davis* v. *Foreman*, 239 F. 2d 579; *Davis* v. *Foreman*, 251 F. 2d 421; *Daviditis* v. *National Bank of Mattoon*, 251 F. 2d 299, and *Daviditis* v. *National Bank of Mattoon*, 262 F. 2d 884.

In the instant case, the District Court granted defendants' motion to dismiss on the grounds of lack of jurisdiction over the subject matter, and that the complaint filed failed to state a claim upon which relief could be granted. We think the District Court was correct.

AFFIRMED

A true Copy:
Teste:

.....

Clerk of the United States Court of Appeals for the Seventh Circuit.

In the Supreme Court of the United States

OCTOBER TERM, 1965

No. 485

STELLA C. DAVIS, PETITIONER

v.

JOHN EDGAR HOOVER, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

The gravamen of petitioner's complaint (which was dismissed below) is unclear. Apparently, petitioner charges respondent Foreman, a former Assistant United States Attorney, with having conspired with certain other persons to defraud petitioner and with having failed to institute criminal proceedings against the National Bank of Mattoon, Illinois The complaint, as it relates to respondent Hoover and unnamed agents of the Federal Bureau of Investiga-

tion, complains of inaction on their part in failing to respond to petitioner's requests for assistance. Presumably, petitioner's claim against the United States is predicated on the Federal Tort Claims Act, 28 U.S.C. 1346(b).

The district court dismissed the complaint on the grounds of lack of jurisdiction and for failure to state a claim upon which relief could be granted. The court of appeals affirmed (Pet. p. 13). That disposition, we submit, was clearly appropriate.

An action against respondent Foreman complaining of acts (presumably libel) committed by him while discharging his official responsibilities as an Assistant United States Attorney is precluded by *Barr* v. *Matteo*, 360 U.S. 564. The allegation that the acts were part of a conspiracy is not, of course, sufficient to place the claim beyond the ambit of the official immunity doctrine. *Brictson* v. *Woodrough*, 164 F. 2d 107 (C.A. 8). See *Bradley* v. *Fisher*, 13 Wall. 335, 347-348, 351. Furthermore, no action will lie to require a United States Attorney, or one of his subordinates, to institute a criminal proceeding. *United States* v. *Cox*, 342 F. 2d 167 (C.A. 5), certiorari denied *sub. nom. Cox* v. *Hauberg*, 381 U.S. 935.

In any event, petitioner has previously litigated this matter. *Davis, et al.* v. *Foreman, et al.*, 239 F. 2d 579 (C.A. 7), certiorari denied, 353 U.S. 930. *Res judicata* is thus an additional bar to the instant suit.

Insofar as the action is directed against Director Hoover and unnamed agents of the Federal Bureau

of Investigation, petitioner does not seek judgment; she seeks the Bureau's assistance in establishing the fact that she telephoned the Bureau's Springfield, Illinois, office some time in 1950 [1] and asked "protection" from reprisals (Pet. p. 4). Plainly no cause of action is stated.

Finally, apart from the question whether the complaint alleges facts which would conceivably entitle petitioner to relief against the United States under the Tort Claims Act, the complaint is plainly time-barred; the acts complained of were committed in 1950 and 1951, more than 12 years before this action was commenced (A. pp. 11-17).[2] 28 U.S.C. 2401(b) requires that suit be filed within two years after the claim accrues. Moreover, this claim too is barred by *res judicata*. *Davis et al.* v. *Foreman, et al., supra.*[3]

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[1] Petitioner apparently deems it essential that she establish that fact in order to establish various claims she has asserted against diverse persons. For a summary of petitioner's prior litigation see p. 8 of the petition.

[2] "A." references are to the appendix to petitioner's brief in the court of appeals which has been filed as part of the record in this Court.

[3] Petitioner challenges 28 U.S.C. 1654 which guarantees the right to appear in all United States courts either *pro se* or by counsel authorized to practice before the particular court. The record reflects that petitioner was permitted personally to participate during all phases of this litigation and there is no suggestion that her right to counsel was in any way infringed.

For the foregoing reasons, we respectfully submit that the petition for a writ of certiorari should be denied.

THURGOOD MARSHALL,
Solicitor General.

SEPTEMBER 1965.

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